

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

MARY S. SCOTT

COMPLAINANT

VS.

EQUITY NO. 32,866

BERNARD S. WALTER, ET AL.

RESPONDENTS

\* \* \* \* \*

MOTION TO PERMIT USE OF DEPOSITION IN

LIEU OF TESTIMONY

Now comes Mary S. Scott, Complainant, by Lawrence E. Finegan and Rosenstock, Burgee & Welty, P.A., and pursuant to Rule 413(a)(3), moves this Honorable Court to permit the use of her deposition in lieu of live testimony and for reasons states:

1. Complainant herein has brought an action respecting title of a certain parcel of property located in Emmitsburg, Maryland.
2. Trial is scheduled on October 4, 1983.
3. Complainant is age 77, and suffers from severe high blood pressure, glaucoma, and diabetes mellitus.
4. Complainant's physician, George L. Morningstar, M.D., has advised counsel that it would be detrimental to Complainant's health state to have her testify in court. A copy of a letter dated November 29, 1982, to this effect is attached hereto and incorporated as Exhibit 1. Complainant's health has not improved since that time.
5. Acting upon Dr. Morningstar's medical recommendation, a deposition of Complainant's testimony was taken on May 5, 1983.
6. At this deposition, counsel for Respondents was present and had full opportunity to cross examine Complainant with respect to her testimony.
7. That notice of this deposition indicated Complainant's intent to use the deposition in lieu of her testimony in Court.